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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/543,686	04/05/2000	Daryl L. Champagne	200-0090	6796
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BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238				EXAMINER GART, MATTHEW S
				ART UNIT 3625 PAPER NUMBER

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/543,686	CHAMPAGNE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Matthew S Gart	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 June 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-44 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-44 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

Claims 1-44 are pending in the instant application.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-6, 13-31 and 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over a public use or knowledge of the invention by Toyota in view of Henson U.S. Patent No. 6,167,383.**

Evidence of public use or knowledge of the invention by Toyota is demonstrated via the following periodicals:

"Push is on shorten lead-times for custom car orders," Brian Milligan, Purchasing, Boston, October 7, 1999, Volume 127, Issue 5, page 74.  
(PTO-892, Ref U)

"Can Car-Makers Emulate Dell? Toyota Tries," Jeffrey Bodenstab, Wall Street Journal, Brussels, August 31, 1999, page 10.  
(PTO-892, Ref V)

"e-Parcel Delivers Data for Toyota's Production Control Division,"  
Business/Technology/Automotive Writers, Business Wire, New York, June  
1, 1999, page 1.  
(PTO-892, Ref W)

"Customers Move into the Driver's Seat: Personalized products become  
viable with the net," Otis Port, Business Week, New York, October 4,  
1999, Issue 3649, page 103.

(PTO-892, Ref X)

Referring to claim 1. Toyota discloses an online method of ordering and  
purchasing customized products, comprising:

- Receiving a custom order message incorporating order data and product configuration data submitted by an online user (Toyota, Page 12: Customers would pick and choose from a menu of onscreen options, then hit a button to send the order straight to the factory. Toyota has been equipping showrooms in Japan with Internet terminals since 1995.");
- Entering the custom order and order data and product configuration into an order bank to be scheduled for manufacturing (Toyota, Page 2: "A quick order"); and
- Canceling the custom order after processing of the custom order is initiated and before the custom order is scheduled for manufacturing if a cancel request is received from the user (Toyota, Page 1: "The problem now is with last minute changes, whereby a supplier gets a production order and then it is changed... It happens quite frequently now.").

Toyota does not expressly disclose an online method of ordering and purchasing customized products, comprising:

- Storing the order data and product configuration into a buyer database; and
- Generating an order confirmation message and sending the order confirmation message to the user.

Henson discloses an online method of ordering and purchasing customized products, comprising:

- Storing the order data and product configuration into a buyer database (Figure 1, "Database 24"); and
- Generating an order confirmation message and sending the order confirmation message to the user (Figure 1, "THANK YOU" and column 5, lines 23-27).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the method of Toyota to have included the limitations found in the method of Henson in order to have solved problems that existed in previous generation online stores including a lack of responsiveness to customer requests and an incompleteness of information delivery (column 2, lines 48-58).

Furthermore, Henson is assigned to Dell and discloses a method and apparatus for providing customer configured machines at an Internet site. PTO-892, Ref U, explicitly discloses that Toyota is trying to emulate Dell's business model of delivering personal products to order.

Referring to claim 2. Toyota further discloses a method comprising:

- Receiving input entered on a web page by the user to submit a custom order, including product configuration data (Toyota, Page 12: Customers would pick and choose from a menu of onscreen options, then hit a button to send the order straight to the factory. Toyota has been equipping showrooms in Japan with Internet terminals since 1995.");
- Generating the custom order message incorporating the product configuration data and sending the custom order message to a web server (Toyota, Page 2: "The system would make short order to manufacture time possible...customers would be able to place an order, then receive the finished car in just five days."); and
- Routing the custom order message to a workflow manager (Toyota, Page 1: "This system calculates exactly how many of a particular part will be needed at specific points on a production line to assemble certain cars. The information forms that basis of provisional orders to the plant's suppliers.").

Referring to claim 3. Toyota further discloses a method comprising:

- Sending the custom order data to a dealer selected by the user (Toyota, Page 2: "A quick Order"); and
- Routing the custom order message to a B2B server, which sends it to an order processor (Toyota, Page 2: "A quick Order").

Referring to claim 4. Toyota further discloses a method comprising generating a unique order number for the custom order (Toyota, Page 2: "...an order is given at a

dealership; five days later, the manufacturing facility begins making the car. The finished vehicle is then shipped out.”).

Referring to claim 5. Toyota in view of Henson discloses a method according to claim 1 as indicated supra. Henson further discloses a method comprising:

- Receiving customer data related to the user from the user (Henson: Figure 7 and Figure 8); and
- Storing the customer data in a common membership database (Henson: Figure 7 and Figure 8).

Referring to claim 6. Toyota in view of Henson discloses a method according to claim 1 as indicated supra. Henson further discloses a method comprising:

- Receiving online payment data from the user for the custom order (Henson: Figure 10);
- Processing the online payment data of the product (Henson: Figure 10); and
- Confirming the online payment processing completion (Henson: Figure 10).

Referring to claim 13. Toyota in view of Henson discloses a method according to claim 1 as indicated supra. Toyota further discloses a method comprising:

- Receiving a lead request message incorporating lead data and product configuration data submitted by the user, the lead-time identifying the online user as a potential customer (Toyota, Pages 1-5);
- Storing the lead data and product configuration into a buyer database (Toyota, Pages 1-5); and

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- Generating a lead confirmation message and sending the lead confirmation message to the user (Toyota, Pages 1-5).

Referring to claims 14-18. Toyota in view of Henson discloses a method according to claim 13 as indicated supra. Toyota further discloses a method comprising a lead update status function (Toyota, Page 4: "If a manufacturer could give a supplier a production schedule for four days from today and hold that production schedule, it helps everyone... If a day later, they change it again, the supplier has difficulty determining what he needs to produce.").

Referring to claim 19. Toyota further discloses a method comprising:

- Receiving a cancel custom order request from the user (Page 2, "According to the plan, dealers can place orders for fully accessorized cars in a 90-day advanced order. They can make changes to some of these cars and strip away certain options in a limited time period, usually a week.");
- Deleting a custom order associated with the cancel customer order request from an order bank (Page 2, "According to the plan, dealers can place orders for fully accessorized cars in a 90-day advanced order. They can make changes to some of these cars and strip away certain options in a limited time period, usually a week."); and
- Updating a buyer database to reflect the updated status of the user (Page 2, "According to the plan, dealers can place orders for fully accessorized cars in a 90-day advanced order. They can make changes to some of these cars and strip away certain options in a limited time period, usually a week.").

Referring to claim 20. Toyota further discloses a method comprising:

- Receiving a cancel tag order request from the user (Page 2, "According to the plan, dealers can place orders for fully accessorized cars in a 90-day advanced order. They can make changes to some of these cars and strip away certain options in a limited time period, usually a week.");
- Modifying data associated with a cancelled tag order in an order bank (Page 2, "According to the plan, dealers can place orders for fully accessorized cars in a 90-day advanced order. They can make changes to some of these cars and strip away certain options in a limited time period, usually a week.");
- Modifying data of a product associated with the cancelled tag order in an enterprise product availability database (Page 2, "According to the plan, dealers can place orders for fully accessorized cars in a 90-day advanced order. They can make changes to some of these cars and strip away certain options in a limited time period, usually a week."); and
- Updating a buyer database to reflect the updated status of the user (Page 2, "According to the plan, dealers can place orders for fully accessorized cars in a 90-day advanced order. They can make changes to some of these cars and strip away certain options in a limited time period, usually a week.").

Referring to claim 21. Claim 21 is rejected under the same rationale as set forth above in claim 1.

Referring to claim 22. Claim 22 is rejected under the same rationale as set forth above in claim 2.

Referring to claim 23. Claim 23 is rejected under the same rationale as set forth above in claim 5.

Referring to claim 24. Claim 24 is rejected under the same rationale as set forth above in claim 4.

Referring to claim 25. Toyota discloses a method according to claim 21 as indicated supra. Toyota further discloses a method wherein the online order is for customer ordering of a vehicle.

Referring to claims 26-31. Arledge discloses claims 26-31 under the same rationale as set forth above in claims 1-7.

Referring to claims 39-40. Arledge discloses claims 39-40 under the same rationale as set forth above in claims 2-3.

Referring to claim 43. Claim 43 is rejected under the same rationale as set forth above in claim 19 and claim 26.

Referring to claim 44. Claim 44 is rejected under the same rationale as set forth above in claim 20 and claim 26.

**Claims 7-12 and 32-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over a public use of the invention by Toyota in view of Henson U.S. Patent No. 6,167,383, in further view of Green U.S. Patent 6,041,310.**

Referring to claim 7. Toyota in view of Henson discloses a method according to claim 1 as indicated supra. Toyota in view of Henson does not expressly disclose a method comprising:

- Displaying a list of products substantially matching product configuration data entered by the online user;
- Receiving a user-tagging of a particular product from the list and a tag order message incorporating tag order data and product configuration data submitted by the user;
- Storing the tag order data and product configuration into a buyer database;
- Modifying inventory data in an inventory database associated with the tagged product to indicate unavailability; and
- Generating a tag order confirmation message and sending the tag order confirmation message to the user.

Green discloses a method comprising:

- Displaying a list of products substantially matching product configuration data entered by the online user (Green: column 1, lines 17-26 and column 9, lines 15-32);

- Receiving a user-tagging of a particular product from the list and a tag order message incorporating tag order data and product configuration data submitted by the user (Green: Figure 12);
- Storing the tag order data and product configuration into a buyer database (Green: Figure 1);
- Modifying inventory data in an inventory database associated with the tagged product to indicate unavailability (Green: column 10, lines 55-61 and claim 1); and
- Generating a tag order confirmation message and sending the tag order confirmation message to the user (Green: Figure 12A).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the method of Toyota in view of Henson to have included the limitations of Green as discussed above in order to allow customers to sift through myriad choices available for a purchase (Green: column 2, lines 14-24).

Referring to claim 8. Claims 8 is rejected under the same rationale as set forth above in claim 2 and 7.

Referring to claim 9. Claims 9 is rejected under the same rationale as set forth above in claim 3 and 7.

Referring to claim 10. Claims 10 is rejected under the same rationale as set forth above in claim 4 and 7.

Referring to claim 11. Claims 11 is rejected under the same rationale as set forth above in claim 5 and 7.

Referring to claim 12. Claims 12 is rejected under the same rationale as set forth above in claim 6 and 7.

Referring to claims 32-38. Claims 32-38 are rejected under the same rationale as set forth above in claims 7-12.

### ***Response to Arguments***

Applicant's arguments filed 4/14/2004 have been fully considered but they are not persuasive.

The Attorney argues that the periodicals cited to by the Examiner do not demonstrate a well-defined public use of the claimed invention by Toyota.

The Examiners notes the articles cited do demonstrate a well-defined public use of the claimed invention. The periodicals sufficiently inform the Public of the invention and/or a Competitor would have been able to reasonably ascertain the invention from the cited articles.

The Examiner further notes, all of the cited articles would qualify as prior art under 35 U.S.C. 102 (a), because the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent.

The Attorney recites particular excerpts from the Toyota references and attempts to show that Toyota did not have possession of the claimed invention at the time of the

printed articles. For example, Ref V, dated August 31, 1999, states "Toyota Motor Corp. announced recently that it will soon begin producing the Camry Solaro to customer order in just five days, and will do the same for other models starting later this year (Emphasis taken from attorney's remarks)."

The Examiner notes, the excerpts that the attorney chosen to specify are not related to the limitations in question of the claimed invention and are therefore irrelevant.

The instant application claims benefit to a provisional application filed 11/05/1999. Ref U has a publication date of 10/07/1999, Ref V has a publication date of 8/31/1999, Ref W has a publication date of 6/01/1999, and Ref X has a publication date of 10/04/1999.

The Applicant requested the Examiner to identify a date certain for Toyota's alleged public use so the Applicants can fully address this ground of rejection.

The Examiner notes, the rejection above fully specifies what limitations are linked to which periodicals. For example, claim 1 relies on Ref U and Ref X; therefore the critical date of public use of claim 1 would be the latest publication date of the two relied upon references (i.e. 10/04/1999).

The Attorney argues that Toyota does not provide evidence for "canceling the custom order after processing of the custom order is initiated and before the custom order is scheduled for manufacturing if a cancel request is received from the user."

The Examiner notes, the canceling language does not recite an action step, it only denotes a situation wherein a product may be cancelable if a relevant party involved in the transaction is not satisfied with the particular order, therefore the limitation, "...wherein the custom order is cancelable by the user after processing of the custom order is initiated and until the custom order is scheduled for manufacturing," is a conditional limitation and is given little patentable weight.

However, Toyota does disclose a method wherein, "the problem now is with last minute changes, whereby a supplier gets a production order and then it is changed... It happens quite frequently now."

Toyota is demonstrating a situation wherein a production order is received (custom order) and after the processing of the production order (custom order) the order is changed or cancelled. Toyota states that this is a well-known process and happens quite frequently now.

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

July 21, 2004



Jeffrey A. Smith  
Primary Examiner